

CHAPTER 11

LEGAL VERDICTS AND STATEMENTS FROM THE FOUR IMAMS AND EMINENT AUTHORITIES OF THE *UMMA* AGAINST TERRORISM AND REBELLION

AFTER HAVING PRODUCED EVIDENCE FROM THE HADITH LITERATURE, we present here the views of the Four Imams of jurisprudence. The objective is to make it clear that the *Umma* has been unanimous on this issue for the last fourteen centuries and that there has been no departure or deviation from the mainstream.

II.1 IMAM ABŪ ḤANĪFA

Imam Abū Ḥanīfa has said in his book, *al-Fiqh al-absaṭ*, regarding fighting the terrorists:

فَقَاتِلْ أَهْلَ الْبَغْيِ بِالْبَغْيِ لَا بِالْكُفْرِ. وَكُنْ مَعَ الْفِتَّةِ الْعَادِلَةِ. وَلَا تَكُنْ مَعَ أَهْلِ الْبَغْيِ.
فَإِنْ كَانَ فِي أَهْلِ الْجَمَاعَةِ فَاسِدُونَ ظَالِمُونَ، فَإِنَّ فِيهِمْ أَيْضًا صَالِحِينَ يُعِينُونَكَ
عَلَيْهِمْ، وَإِنْ كَانَتْ الْجَمَاعَةُ بَاغِيَّةً فَاعْتَزِلْهُمْ وَاخْرُجْ إِلَى غَيْرِهِمْ. قَالَ اللَّهُ تَعَالَى:
﴿أَلَمْ تَكُنْ أَرْضُ اللَّهِ وَاسِعَةً فَتُهَاجِرُوا فِيهَا﴾، ﴿إِنَّ أَرْضِي وَاسِعَةٌ فَإِنِّي فَاعْبُدُون﴾.

So fight against rebels on account of their rebellion, not because of disbelief. Be with the just and moderate group and do not be with the people of rebellion. If there is to be found oppressors and corrupt individuals amongst the mainstream majority group [*jamā'a*], then there are also righteous people amongst them who will help you against them. If the *jamā'a* is itself in a state of rebellion, withdraw yourself from them and go to others. God Most High says, 'Was God's earth not spacious enough for you to migrate therein?' [Qur'ān 4:97] and, 'Indeed, My earth is vast so worship Me alone'. [Qur'ān 29:52]¹

II.2 IMAM AL-ṬAḤĀWĪ

The eminent imam of the Ḥanafī juridical school, Imam Abū Ja'far al-Ṭaḥāwī said,

¹ Abū Ḥanīfa, *al-Fiqh al-absaṭ* (cited by Zāhid al-Kawtharī in his *Majmū'at al-aqāida wa 'ilm al-kalām*), pp. 606–607.

لَا نَرَى السَّيْفَ عَلَى أَحَدٍ مِنْ أُمَّةٍ مُحَمَّدٍ إِلَّا مَنْ وَجَبَ عَلَيْهِ السَّيْفُ، وَلَا نَرَى
الْخُرُوجَ عَلَى أَمَّتِنَا وَوَلَاةِ أُمُورِنَا، وَإِنْ جَارُوا، وَلَا نَدْعُو عَلَيْهِمْ، وَلَا نَنْزِعُ يَدًا مِنْ
طَاعَتِهِمْ.

We do not approve [the use of the sword] against any of the *Umma*, except him against whom the sword is deemed necessary. And we do not approve of rebellion against our rulers and those in charge of our affairs, even if they are unjust. We do not supplicate against them or withdraw obedience from them.¹

Interpreting this statement of Imam al-Ṭaḥāwī, Ibn Abī al-ʿIzz al-Ḥanafī quoted a hadith narrated in *Ṣaḥīḥ Muslim* from ʿAwf b. Mālik, in which the Prophet ﷺ said, ‘If you then find anything detestable in a ruler, you should hate his action, but do not disobey him’. Ibn Abī al-ʿIzz also mentioned the prophetic command, ‘do not withdraw obedience to them’. He explained:

فَقَدْ دَلَّ الْكِتَابُ وَالسُّنَّةُ عَلَى وَجُوبِ طَاعَةِ أُولَى الْأَمْرِ مَا لَمْ يَأْمُرُوا بِمَعْصِيَةٍ. فَتَأْمَلْ
قَوْلَهُ تَعَالَى: ﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولَى الْأَمْرِ مِنْكُمْ﴾
لِأَنَّ أُولَى الْأَمْرِ لَا يُفَرِّدُونَ بِالطَّاعَةِ، بَلْ يُطَاعُونَ فِيمَا هُوَ طَاعَةُ اللَّهِ وَرَسُولِهِ. وَأَعَادَ
الْفِعْلَ مَعَ الرَّسُولِ ﷺ، لِأَنَّهُ هُوَ مَعْصُومٌ. ”وَأُولُو الْأَمْرِ“ لَا يُطَاعُ إِلَّا فِيمَا هُوَ طَاعَةُ
اللَّهِ وَرَسُولِهِ. وَإِمَّا لَزُومُ طَاعَتِهِمْ (وَإِنْ جَارُوا) فَلِأَنَّهُ يَتَرْتَّبُ عَلَى الْخُرُوجِ عَنْ طَاعَتِهِمْ
مِنَ الْمَقَاسِدِ أَضْعَافٌ مَا يَحْصُلُ مِنْ جَوْرِهِمْ.

The Book and the Sunna both prove that it is obligatory to obey those in authority as long as they do not order that which is disobedience. So contemplate the words of the Most High, ‘Obey God and obey the Messenger and those of authority amongst you’. See how He said, ‘obey the Messenger’ and did not say ‘and obey those of authority amongst you’, because the people of authority are not obeyed for their own sake, but are obeyed in

¹ Al-Ṭaḥāwī, *al-ʿAqīda al-ṭaḥāwīyya*, §§71, 72.

that which is obedience to God and His Messenger. The command verb is repeated for the Messenger ﷺ because he is infallible [*maʿṣūm*], and the people of authority are only obeyed in that which is obedience to God and His Messenger. As for obeying them ‘even if they are unjust’, it is because the harms associated with rebelling against them far outweigh than what occurs with their injustice.¹

11.3 IMAM MĀLIK

Imam Ṣaḥnūn recorded in *al-Mudawwana*:

قَالَ مَالِكٌ فِي الْإِبَاضِيَّةِ، وَالْحُرُورِيَّةِ، وَأَهْلِ الْأَهْوَاءِ كُلِّهِمْ: أَرَى أَنْ يُسْتَنْبَأُوا، فَإِنْ تَابُوا، وَإِلَّا قُتِلُوا. قَالَ ابْنُ الْقَاسِمِ: وَقَالَ مَالِكٌ فِي الْحُرُورِيَّةِ وَمَا أَشْبَهَهُمْ: إِنَّهُمْ يُقْتَلُونَ إِذَا لَمْ يَتُوبُوا إِذَا كَانَ الْإِمَامُ عَدْلًا. فَهَذَا يَدُلُّكَ عَلَى أَنَّهُمْ إِنْ خَرَجُوا عَلَى إِمَامٍ عَدْلٍ وَهُمْ يُرِيدُونَ قِتَالَهُ وَيَدْعُونَ إِلَى مَا هُمْ عَلَيْهِ دُعَا إِلَى الْجَمَاعَةِ وَالسُّنَّةِ، فَإِنْ أَبَوْا قُتِلُوا. قَالَ: وَلَقَدْ سَأَلْتُ مَالِكًا عَنْ أَهْلِ الْعَصِيَّةِ الَّذِينَ كَانُوا بِالشَّامِ، قَالَ مَالِكٌ: أَرَى لِلْإِمَامِ أَنْ يَدْعُوهُمْ إِلَى الرُّجُوعِ، وَإِلَى مُنَاصَفَةِ الْحَقِّ بَيْنَهُمْ، فَإِنْ رَجَعُوا وَإِلَّا قُوتِلُوا.

Mālik said regarding the Ibadis, the Ḥarūriyya and the people of vain desires, ‘I am of the view that repentance should be sought from all of them. If they repent [well and good], otherwise they should be killed’. Ibn al-Qāsim said, ‘And Mālik said regarding the Ḥarūriyya and their ilk, “They should be killed if they do not repent [of their destructive activities]—provided it is a Muslim state”.’ This shows you that if they rebel against a just ruler and desire to kill him, and call to their way of understanding, they should be invited to the community [*jamāʿa*] and the correct belief [Sunna], and if they refuse they should be killed. And I asked Mālik about the biased partisans who were present in the Levant and he said, ‘I am of the view that the government should invite them to return

¹ Ibn Abī al-ʿIzz al-Hanafī, *Sharḥ al-ʿaqīda al-taḥāwiyya*, p. 282.

and deal justly between themselves, and if they return [well and good], otherwise they should be fought'.¹

II.4 IMAM AL-SHĀFIʿĪ

Imam al-Shāfiʿī said about terrorists:

لَوْ أَنَّ قَوْمًا كَانُوا فِي مِصْرٍ أَوْ صَحْرَاءٍ فَسَفَكُوا الدَّمَاءَ وَأَخَذُوا الْأَمْوَالَ، كَانَ حُكْمُهُمْ
كَحُكْمِ قُطَاعِ الطَّرِيقِ، وَسَوَاءٌ كَانَتِ الْمُكَابَرَةُ فِي الْمِصْرِ أَوْ الصَّحْرَاءِ، وَلَوْ افْتَرَقَا
كَانَتِ الْمُكَابَرَةُ فِي الْمِصْرِ أَعْظَمَهُمَا.

فَإِذَا دُعِيَ أَهْلُ الْبَغْيِ فَاغْتَنَعُوا مِنَ الْإِجَابَةِ فَقَاتَلُوا. . . فَإِنَّمَا أُبَيِّحُ قِتَالَ أَهْلِ
الْبَغْيِ مَا كَانُوا يُقَاتِلُونَ، وَهُمْ لَا يَكُونُونَ مُقَاتِلِينَ أَبَدًا إِلَّا مُقْبِلِينَ مُتَمَتِّعِينَ مُرِيدِينَ.
فَمَتَّى رَأَيْلُوا هَذِهِ الْمَعَانِيَ فَقَدْ خَرَجُوا مِنَ الْحَالِ الَّتِي أُبَيِّحُ بِهَا قِتَالَهُمْ، وَهُمْ لَا
يَخْرُجُونَ مِنْهَا أَبَدًا إِلَّا إِلَى أَنْ تَكُونَ دِمَاؤُهُمْ مُحَرَّمَةً كِهَيِّ قَبْلُ.

If there is a group of people who are shedding blood and seizing wealth in either populated areas or barren wastelands, they take the same legal ruling as highway robbers. The gravity of their crime is equal whether it takes place in a populated area or a barren wasteland; but if they split up, then the crime that takes place in the populated areas is the severer of the two.²

If rebels are invited [to lay down their arms] but refuse to comply they are to be fought. . . . It is only permissible to fight rebels when they are engaged in fighting; and they are never seen as fighters unless they are pressing forward, withholding obedience and doing so resolutely. So whenever these qualities are absent they are no longer in the state in which it is permissible to fight them; and never do they abandon these things except that their blood is considered inviolable as it was before [their rebellion].³

¹ Saḥnūn, *al-Mudawwana al-kubrā*, 3:94.

² Al-Shāfiʿī, *al-Umm*, 4:218.

³ Ibid.

11.5 IMAM AḤMAD B. ḤANBAL

The illustrious Imams have always taught moderation, self-control, tolerance and harmony to save people from mischief, terrorism and bloodshed. Despite immense pressures and severe hardships, including imprisonment and lashing, Imam Aḥmad b. Ḥanbal did not provoke the Muslim masses against the government of his day. He suffered his trials due to a well-known controversial issue in Islamic doctrine regarding the createdness or uncreatedness of the Qur'ān. Declaring God's Speech, the Qur'ān, created was the single most dangerous tribulation the *Umma* had faced.

The belief in the createdness of the Qur'ān was a product of the extremist beliefs of the Mutazilites and had completely engulfed the rulers of that time. The Mutazilites, who were the intellectual heirs of the Kharijites, were highly influential in the government. It was for this reason that many of the notable personalities of the Muslim world suffered serious opposition and oppressive measures taken by the government against them.

Imam Aḥmad b. Ḥanbal was amongst those who suffered the most during this tribulation. He was lashed and tortured, but, despite all the oppression he suffered, he dissuaded people from armed revolt and rebellion against the government. Examples of his forbearance and perseverance have been chronicled in many famous books. Of them, Abū Bakr al-Khalāl's *al-Sunna* presents many accounts of his life and surrounding events. Abū al-Ḥārith narrated that he asked Imam Aḥmad b. Ḥanbal about the rebellion movement launched against the government in Baghdad. The Abbasid rulers, under the influence of the Mutazilites, were causing serious troubles to the common Muslims, but when Imam Aḥmad b. Ḥanbal was requested to join and support a rebellious movement against the government, he said,

سُبْحَانَ اللَّهِ، الدِّمَاءُ، الدِّمَاءُ، لَا أَرَى ذَلِكَ، وَلَا أَمُرُ بِهِ، الصَّبْرُ عَلَى مَا نَحْنُ فِيهِ
خَيْرٌ مِنَ الْفِتْنَةِ يُسْفِكُ فِيهَا الدِّمَاءُ، وَيُسْتَبَاحُ فِيهَا الْأَمْوَالُ، وَيُنْتَهَكُ فِيهَا الْمَحَارِمُ.

‘Glorified is God! In no way do I consider it lawful to shed blood, nor do I command it. For us to be patient in

these circumstances is better than tribulation in which blood is shed and in which wealth is seized and people's honour is violated'.¹

Some people still insisted and said, 'Are we not faced with a situation that necessitates jihad in order to annihilate it?' Hearing that, he replied, 'Certainly, it is a disruption that will die in some days, but if swords are drawn then massacre will be the outcome, and the doors to peace and piety will close'.

When the rebellion gained momentum in the days of Caliph al-Wāthiq Billāh, the Islamic jurists collectively approached Imam Aḥmad b. Ḥanbal and mentioned the rapidly deteriorating situation. He inquired as to what they wanted and all of them submitted that they had come to him to seek his guidance and counsel, as they were fed up with the government's stance. They wanted to join the uprising and overthrow the Caliph's rule. Imam Aḥmad advised them to be patient, saying, 'Although the circumstances are worsening, you must change your mind and not challenge the government's authority'. He also said,

عَلَيْكُمْ بِالتَّكْوِينِ بِقُلُوبِكُمْ، وَلَا تَحْلَعُوا يَدًا مِنْ طَاعَةٍ، وَلَا تَشُقُّوا عَصَا الْمُسْلِمِينَ، وَلَا تَسْفِكُوا دِمَاءَكُمْ وَدِمَاءَ الْمُسْلِمِينَ مَعَكُمْ. أَنْظَرُوا فِي عَاقِبَةِ أَمْرِكُمْ، وَاصْبِرُوا حَتَّى يَسْتَرِيحَ بَرٌّ، أَوْ يُسْتَرَاخَ مِنْ فَاجِرٍ. لَا، هَذَا خِلَافُ الْآثَارِ الَّتِي أُمِرْنَا فِيهَا بِالصَّبْرِ.

See to it that you detest [these things] in your hearts but do not challenge the writ and authority of the government or cause a split in Muslim unity. Do not shed your own blood or the blood of the Muslims with you. Consider the consequences of your actions and observe patience until a pious person enjoys comfort or comfort is enjoyed at the demise of a criminal. This [idea to rebel against the government] is against the reports that command us to observe patience.²

¹ Narrated by al-Khalāl in *al-Sunna*, p. 132 §89. This narration has an authentic chain of transmission.

² Ibid., p. 133 §90.

11.6 IMAM SUFYĀN AL-THAWRĪ

Someone approached Imam Sufyān al-Thawrī for an edict in favour of armed struggle against Caliph Hārūn al-Rashīd, but he exhorted him to observe patience and avoid turmoil. He said,

كَفَيْتُكَ هَذَا الْأَمْرَ، وَنَقَرْتُ لَكَ عَنْهُ. اجْلِسْ فِي بَيْتِكَ.

‘I have sufficed you from this matter and explained it, so sit in your home [and avoid this turmoil]’.¹

11.7 IMAM AL-MĀWARDĪ

Imam al-Māwardī took a detailed account of the commands pertaining to rebels and terrorists and maintained that the rebels must be fought back until they submit to the authority of the government. He derived this decree from the verse nine of *Sūra al-Hujurat*:

﴿وَأِنْ طَائِفَتَانِ مِنَ الْمُؤْمِنِينَ اقْتَتَلُوا فَأَصْلَحُوا بَيْنَهُمَا فَإِنْ بَغَتْ إِحْدَهُمَا عَلَى الْأُخْرَىٰ فَقَاتِلُوا الَّتِي تَبْغِي حَتَّىٰ تَفِيءَ إِلَىٰ أَمْرِ اللَّهِ فَإِنْ فَاءَتْ فَأَصْلَحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ﴾

‘And if two parties amongst the believers fight each other, then make peace between them. And if one party goes against the other, then all of you together fight the contentious party until they all submit to the command of God. And if they submit, then make peace between them with fairness and behave justly. Indeed, God loves the just’.²

Imam al-Māwardī said:

فِي قَوْلِهِ ﴿فَإِنْ بَغَتْ إِحْدَهُمَا عَلَى الْأُخْرَىٰ﴾ وَجِهَانِ: أَحَدُهُمَا بَغَتْ بِالْعَدَايَةِ فِي الْقِتَالِ؛ وَالثَّانِي بَغَتْ بِالْعُدُولِ عَنِ الصُّلْحِ. وَقَوْلُهُ ﴿فَقَاتِلُوا الَّتِي تَبْغِي﴾ يَعْنِي بِالسَّيْفِ رَدًّا عَنِ الْبَغْيِ وَزَجْرًا عَنِ الْمُخَالَفَةِ. وَفِي قَوْلِهِ تَعَالَى: ﴿حَتَّىٰ تَفِيءَ إِلَىٰ

¹ Ibid., p. 137 §96.

² Qur’ān 49:9.

أَمْرُ اللَّهِ ﴿فَإِنْ قَاءَتْ﴾ أَي رَجَعَتْ عَنِ الْبَغْيِ.
أَمْرُ اللَّهِ ﴿حَتَّى تَرْجِعَ إِلَى الصُّلْحِ الَّذِي أَمَرَ اللَّهُ تَعَالَى بِهِ، وَهُوَ قَوْلُ سَعِيدِ بْنِ جُبَيْرٍ.

The phrase, ‘*And if one party goes against the other*’, has two angles of interpretation. One of them is that ‘*goes against*’ [*baghat*] means to transgress by fighting, and the second angle is that ‘*goes against*’ means to avoid reconciliation. His statement, ‘*then all of you together fight the contentious party . . .*’, means that they should be fought with the sword so as to dissuade them from rebellion and discourage them from opposition. And His statement, ‘*until they all submit to the command of God*’, means that they should be fought until they return and make peace, as God Most High ordered them. And this is the view of Sa‘īd b. Jubayr. ‘*And if they submit*’ means that they give up rebellion.¹

11.8 IMAM AL-SARAKHSĪ

Imam al-Sarakhsī, a well-known authority in Hanafī jurisprudence, ruled that it is lawful to crush rebels. He said,

فَحِينَئِذٍ يَجِبُ عَلَى مَنْ يَقْوَى عَلَى الْقِتَالِ أَنْ يُقَاتِلَ مَعَ إِمَامِ الْمُسْلِمِينَ الْخَارِجِينَ لِقَوْلِهِ تَعَالَى: ﴿فَإِنْ بَغَتْ إِحْدَهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا الَّتِي تَبْغِي﴾. وَالْأَمْرُ حَقِيقَةٌ لِلْجُوبِ، وَلِأَنَّ الْخَارِجِينَ قَصَدُوا أَذَى الْمُسْلِمِينَ وَإِمَاطَةَ الْأَذَى مِنْ أَبْوَابِ الدِّينِ، وَخُرُوجَهُمْ مَعْصِيَةً فِي الْقِيَامِ بِقِتَالِهِمْ نَهْيٍ عَنِ الْمُنْكَرِ وَهُوَ فَرَضٌ وَلِأَنَّهُمْ يُهَيِّجُونَ الْفِتْنَةَ. قَالَ ﷺ: الْفِتْنَةُ نَائِمَةٌ، لَعَنَ اللَّهُ مَنْ أَبْقَاهَا. فَمَنْ كَانَ مَلْعُونًا عَلَى لِسَانِ صَاحِبِ الشَّرْعِ - صَلَوَاتُ اللَّهِ عَلَيْهِ - يُقَاتِلْ مَعَهُ.

So under those circumstances it is incumbent upon an able-bodied man to fight with the government of the Muslims against those who rebel. This is due to the statement of the Most High, ‘*And if one party goes against the other, then all of you together fight the contentious party until*

¹ Al-Māwardī, *al-Aḥkām al-sultāniyya*, p. 59.

they all submit to the command of God'. This command is indicative of obligation, and furthermore, those who rebel intend to harm the Muslims and removing harm is a part of the religion¹ and their rebellion is disobedience. So fighting against them is a part of forbidding the evil, which is obligatory. Moreover, they are to be fought because they instigate turmoil. The Prophet ﷺ said, 'Tribulation is sleeping; may God curse the one who awakens it'. Anyone who is cursed upon the tongue of the Prophet ﷺ should be fought.²

II.9 IMAM AL-KĀSĀNĪ

Imam al-Kasānī, the author of the famous book of Ḥanafī jurisprudence, *Badā'i' al-ṣanā'i'*, ruled that terrorists must be killed in order to eliminate mischief and strife. He wrote:

لَأَنَّهُمْ سَاعُونَ فِي الْأَرْضِ بِالْفَسَادِ، فَيَقْتُلُونَ دَقْعًا لِلْفَسَادِ عَلَى وَجْهِ الْأَرْضِ. وَإِنْ قَاتَلَهُمْ قَبْلَ الدَّعْوَةِ لَا بَأْسَ بِذَلِكَ، لِأَنَّ الدَّعْوَةَ قَدْ بَلَغَتْهُمْ لِكُونِهِمْ فِي دَارِ الْإِسْلَامِ، وَمِنَ الْمُسْلِمِينَ أَيْضًا. وَيَجِبُ عَلَى كُلِّ مَنْ دَعَاهُ الْإِمَامُ إِلَى قِتَالِهِمْ أَنْ يُجِيبَهُ إِلَى ذَلِكَ، وَلَا يَسْعَهُ التَّخَلُّفُ إِذَا كَانَ عِنْدَهُ غِنًى وَقُدْرَةٌ لِأَنَّ طَاعَةَ الْإِمَامِ فِيمَا لَيْسَ بِمَعْصِيَةٍ فَرَضَ، فَكَيْفَ فِيمَا هُوَ طَاعَةٌ.

Because they spread corruption on the earth, they should be fought in order to prevent that. And if the government fights them before inviting them [to change their ways], there is no harm in that, since the invitation has already reached them on account of their being in the lands in which Islam is dominant [*Dār al-Islam*] and being Muslims. It is incumbent upon all who are ordered by the government to fight against them to obey and it is not

¹ As indicated in the hadith, 'Faith has over seventy branches. The loftiest of them is the statement, "There is no god but God", and the lowest of them is removing harm from the street; and modesty is a branch of faith'. [*Ṣaḥīḥ Muslim*] ED.

² Al-Sarakhsī, *al-Mabsūṭ*, 10:124.

permitted for the individual fighter to lag behind if he has sufficient provisions and capability. This is because it is obligatory to obey the authority of the government in that which does not entail disobedience—so even more so if the command entails obedience!¹

II.10 IMAM AL-MARGHĪNĀNĪ

An important question on this topic is how long an operation against terrorists should last; Imam al-Marghīnānī spoke about this, saying:

إِذَا تَغَلَّبَ قَوْمٌ مِنَ الْمُسْلِمِينَ عَلَى بَلَدٍ، وَخَرَجُوا مِنْ طَاعَةِ الْإِمَامِ، دَعَاهُمْ إِلَى الْعُودِ إِلَى الْجَمَاعَةِ، وَكُشِفَ عَنْ شُبُهَتِهِمْ لِأَنَّ عَلِيًّا عليه السلام فَعَلَ ذَلِكَ بِأَهْلِ حُرُورَاءَ قَبْلَ قِتَالِهِمْ، وَلَئِنَّهُ أَهْوَنُ الْأَمْرَيْنِ وَلَعَلَّ الشَّرَّ يَنْدَفِعُ بِهِ، فَيَبْدَأُ بِهِ وَلَا يَبْدَأُ بِقِتَالٍ حَتَّى يَبْدُوهُ، فَإِنْ بَدَّوهُ قَاتَلَهُمْ حَتَّى يُفَرِّقَ جَمْعَهُمْ.

When a group of Muslims overtake an area and rebel against the authority of the Muslim government, it is to invite them to return to the main body and refute their specious arguments', just as 'Alī عليه السلام did with the people of Ḥārūrā before they were fought. Moreover, this is the easier of the two options, and perhaps evil will be averted because of it. So he is to first invite them back and should not fight against them until they initiate hostilities. But when they initiate hostilities, he should fight them and scatter their forces [and crush their power].²

II.11 IMAM IBN QUDĀMA AL-MAQDISĪ

In his magnum opus, *al-Mughnī*, Imam Ibn Qudāma al-Maqdisī penned a section on fighting against rebels. He cited the views of the hadith scholars and stated,

ذَهَبَتْ طَائِفَةٌ مِنْ أَهْلِ الْحَدِيثِ إِلَى أَنَّهُمْ كُفَّارٌ مُرْتَدُّونَ، حُكْمُهُمْ حُكْمُ الْمُرْتَدِّينَ

¹ Al-Kāsānī, *Badā'i' al-ṣanā'i'*, 7:140.

² Al-Marghīnānī, *al-Hidāya*, p. 573.

وَتُبَاحُ دِمَاؤُهُمْ وَأَمْوَالُهُمْ. فَإِنْ تَحَيَّرُوا فِي مَكَانٍ وَكَانَتْ لَهُمْ مَنَعَةٌ وَشَوْكَةٌ، صَارُوا أَهْلَ حَرْبٍ كَسَائِرِ الْكُفَّارِ، وَإِنْ كَانُوا فِي قَبْضَةِ الْإِمَامِ اسْتَبَابَهُمْ كَاسْتِبَابَةِ الْمُؤْتَدِّينَ. فَإِنْ تَابُوا وَإِلَّا ضُرِبَتْ أَعْنَاقُهُمْ، وَكَانَتْ أَمْوَالُهُمْ فَيْئًا لَا يَرِثُهَا وَرَثَتُهُمُ الْمُسْلِمُونَ.

A group amongst the traditionists [hadith scholars] were of the opinion that the rebels are disbelievers and apostates, and that they take the same ruling as apostates in that their blood and wealth are lawful. If they confine themselves to a particular location and possess power and force, they become people of war [*ahl al-ḥarb*] like the other disbelievers. And if they are in the custody of the government, repentance is to be sought from them just as repentance is sought from the apostates. If they repent [good and well], otherwise they are to be executed and their wealth will be considered *fay'* (spoils acquired without fighting) and their Muslim heirs will not inherit from them.¹

II.12 IMAM AL-NAWAWĪ

Imam al-Nawawī mentioned that there is a consensus amongst the Companions that rebels are to be fought.

قَالَ الْعُلَمَاءُ: وَيَجِبُ قِتَالُ الْبَغَاةِ وَلَا يُكْفَرُونَ بِالْبَغْيِ، وَإِذَا رَجَعَ الْبَاغِي إِلَى الطَّاعَةِ قُبِلَتْ تَوْبَتُهُ وَتُرِكَ قِتَالُهُ، وَأَجْمَعَتِ الصَّحَابَةُ رضي الله عنهم عَلَى قِتَالِ الْبَغَاةِ.

The scholars state, 'It is obligatory to fight rebels and they are not declared disbelievers on account of their rebellion. And if a rebel returns to obedience [to the government], his repentance is to be accepted and he should not be killed. The Companions رضي الله عنهم were unanimous in their view that rebels should be eliminated'.²

Imam al-Nawawī also described the stance of the scholarly majority with regard to declaring rebels disbelievers. He said,

¹ Ibn Qudāma al-Maqdisī, *al-Mughnī*, 9:4.

² Yahyā al-Nawawī, *Rawḍat al-tālibīn*, 10:50.

أَطْلَقَ الْبَغْوِيُّ أَنَّهُمْ إِنْ قَاتَلُوا فَهُمْ فَسَقَةٌ وَأَصْحَابُ بَهْتٍ، فَحُكْمُهُمْ حُكْمُ قُطَاعِ الطَّرِيقِ. فَهَذَا تَرْيِيبُ الْمَذْهَبِ وَالْمَنْصُوصِ، وَمَا قَالَهُ الْجُمْهُورُ. وَحَكَى الْإِمَامُ فِي تَكْفِيرِ الْخَوَارِجِ وَجْهَيْنِ. قَالَ: فَإِنْ لَمْ نُكْفِّرْهُمْ فَلَهُمْ حُكْمُ الْمُرْتَدِّينَ، وَقِيلَ حُكْمُ الْبُغَاةِ. فَإِنْ قُلْنَا كَالْمُرْتَدِّينَ لَمْ تَنْفُذْ أَحْكَامَهُمْ.

Imam al-Baghawī stated that they are considered reprobates and bearers of calumny if they fight, and that the legal ruling upon them is the same as the ruling upon highway robbers. This is according to the dictates of the legal school and what is textually stated, and it is the view of the scholarly majority. The Imam [al-Baghawī] cited two views with regard to declaring the Kharijites disbelievers. He said, ‘If we do not charge them with disbelief they will be treated with the rulings reserved for apostates. It has also been said that they are treated with the rulings reserved for rebels. And if we say like apostates their rulings will not be carried out’.¹

II.13 ‘ĀLIM B. AL-‘ALĀ’ AL-ANDARĪTĪ AL-DIHLAWĪ

‘Ālim b. al-‘Alā’ al-Andarītī al-Dihlawī writes,

يَجِبُ أَنْ يُعْلَمَ أَنَّ أَهْلَ الْبَغْيِ قَوْمٌ مِنَ الْمُسْلِمِينَ، يَخْرُجُونَ عَلَى الْإِمَامِ الْعَدْلِ وَيَمْتَنِعُونَ عَنْ أَحْكَامِ أَهْلِ الْعَدْلِ، فَالْحُكْمُ فِيهِمْ أَنَّهُمْ إِذَا تَجَهَّزُوا وَاجْتَمَعُوا حَلَّ لِإِمَامِ أَهْلِ الْعَدْلِ أَنْ يُقَاتِلَهُمْ، وَعَلَى كُلِّ مَنْ يَقْدِرُ عَلَى الْقِتَالِ أَنْ يَقُومَ بِنُصْرَةِ إِمَامِ أَهْلِ الْعَدْلِ.

It must be known that the people of rebellion are a folk amongst the Muslims who rebel against the government and refuse the jurisdiction of the people of justice. The ruling regarding them is that it is permissible for the government to fight them if they take up arms and assemble a force. And everyone who is capable of fighting must assist the ruler of the people of justice.²

¹ Ibid., 10:51–52.

² ‘Ālim b. al-‘Alā’ al-Andarītī al-Dihlawī, *al-Fatāwā al-tātārkhāniyya*, 4:172.

II.14 IMAM IBN MUFLIḤ AL-ḤANBALĪ

Like Imam al-Nawawī, Imam Ibrāhīm b. Muflīḥ al-Ḥanbalī also ruled that rebels must be fought. He said,

أَصْلُ مَنْ كَفَرَ أَهْلَ الْحَقِّ وَالصَّحَابَةَ وَاسْتَحَلَّ دِمَاءَ الْمُسْلِمِينَ فَهُمْ بُغَاةٌ فِي قَوْلِ الْجَمَاهِيرِ، تَتَعَيَّنُ اسْتِبَابَتُهُمْ، فَإِنْ تَابُوا وَإِلَّا قُتِلُوا عَلَى إِفْسَادِهِمْ لَا عَلَى كُفْرِهِمْ.

Those who impute the people of truth and the Companions with disbelief and declare lawful the shedding of Muslim blood are considered rebels [*bughāt*], according to the view of the scholarly majority. It is obligatory to demand their repentance. If they repent [well and good], otherwise they are to be killed as punishment for their crimes, not because of disbelief.¹

He continued:

إِنْ فَأَوْوَا وَإِلَّا قَاتَلَهُمْ وَعَلَى رَعِيَّتِهِ مَعُونَتُهُ عَلَى حَرْبِهِمْ، فَإِنْ اسْتَظَرُّوهُ مَدَّةً رَجَا فَلَا يُمَكِّنُ ذَلِكَ فِي حَقِّهِمْ، فَإِنْ أَبَوْا الرُّجُوعَ وَعَظَّمُوا وَخَوَّفُوا الْقِتَالَ لِأَنَّ الْمَقْصُودَ دَفْعُ شَرِّهِمْ لَا قَتْلَهُمْ، فَإِنْ فَأَوْوَا أَيْ رَجَعُوا إِلَى الطَّاعَةِ وَإِلَّا قَاتَلَهُمْ أَيْ يَلْزَمُ عَلَى الْقَادِرِ قِتَالُهُمْ لِاجْتِمَاعِ الصَّحَابَةِ عَلَى ذَلِكَ.

If they submit [that is well and good]; otherwise the government should fight them. And the subjects are duty-bound to assist the government in fighting against them. If they [the rebels] seek a cessation of hostilities for a time, that is not possible for them. If they refuse to return [to the main body], the government is to exhort them and warn them of impending fighting, because the objective is to repel their evil and not to kill them. If they submit to the authority of the state [well and good]; otherwise he is to fight them. So in other words, the one who is capable must fight them due to the consensus of the Companions to that effect.²

¹ Ibn Muflīḥ, *al-Mubdiʿ*, 9:160.

² Ibid., 9:161.

II.15 IMAM ZAYN AL-DĪN B. AL-NUJAYM

Imam Zayn al-Dīn b. Nujaym, one of the notable jurists of the Ḥanafī school and author of a commentary on the legal manual *Kanz al-daqa'iq*, said:

قَوْلُهُ: خَرَجَ قَوْمٌ مُسْلِمُونَ عَنِ طَاعَةِ الْإِمَامِ وَعَلَبُوا عَلَى بَلَدٍ دَعَاهُمْ إِلَيْهِ وَكَشَفَ شُبُهَتَهُمْ بِأَن يَسْأَلَهُمْ عَنْ سَبَبِ خُرُوجِهِمْ، فَإِنْ كَانَ لِظُلْمٍ مِنْهُ أَرَأَاهُ وَإِنْ قَالُوا الْحَقُّ مَعَنَا وَالْوِلَايَةُ لَنَا، فَهُمْ بُغَاةٌ، لِأَنَّ عَلِيًّا عليه السلام فَعَلَ ذَلِكَ بِأَهْلِ حُرُورَاءَ قَبْلَ قِتَالِهِمْ وَلِأَنَّهُ أَهْوَنُ الْأُمُورِ. وَلَعَلَّ الشَّرَّ يَنْدَفِعُ بِهِ، فَيَبْدَأُ بِهِ اسْتِحْبَابًا لَا وَجُوبًا. فَإِنَّ أَهْلَ الْعَدْلِ لَوْ قَاتَلُوهُمْ مِنْ غَيْرِ دَعْوَةٍ إِلَى الْعُودِ إِلَى الْجَمَاعَةِ، لَمْ يَكُنْ عَلَيْهِمْ شَيْءٌ، لِأَنَّهُمْ عَلِمُوا مَا يَقَاتِلُونَ عَلَيْهِ، فَحَالَهُمْ كَالْمُرْتَدِّينَ وَأَهْلِ الْحَرْبِ بَعْدَ بُلُوغِ الدَّعْوَةِ.

His statement, ‘a folk from the Muslims revolt against the authority of the government and overtake a territory’, (implies) the ruler is to invite them and refute their specious arguments by asking them their reasons for revolt. If it is due to some oppression that he is committing he should remove it, and if they say, ‘The truth is on our side and we are in authority’, they are considered rebels [*bughāt*], because ‘Alī عليه السلام did that with the people of Ḥārūrā before fighting them, and it is the easier of the two options, for perhaps evil can be averted through it. It is recommended for him [the ruler] to initiate this, but it is not obligatory; for if the people of justice fought them without inviting them to return to the community [*jamā‘a*] there would be no sin upon them because they [the rebels] know that for which sake they are fighting, so their condition is like that of the apostates and the people of war [*ahl al-ḥarb*] after the invitation has reached them.¹

II.16 ‘ABD AL-RAḤMĀN AL-JAZĪRĪ

Supporting the majority opinion in his book on comparative jurisprudence, *al-Fiqh ‘alā al-madhāhib al-‘arba‘a*, ‘Abd al-

¹ Ibn Nujaym, *al-Baḥr al-rā‘iq*, 5:151.

Raḥmān al-Jazīrī held that war is obligatory against rebels. He wrote:

لَوْ خَرَجَ جَمَاعَةٌ عَلَى الْإِمَامِ وَمَنَعُوا حَقًّا لِلَّهِ أَوْ لِأَدَمِيٍّ، أَوْ أَبَوْا طَاعَتَهُ يُرِيدُونَ عَزْلَهُ،
وَلَوْ كَانَ جَائِزًا، فَيَجِبُ عَلَى الْإِمَامِ أَنْ يُنذِرَ هَؤُلَاءِ الْبَغَاةَ، وَيَدْعُوهُمْ لِمَطَاعَتِهِ، فَإِنْ هُمْ
عَادُوا إِلَى الْجَمَاعَةِ تَرَكَّهُمْ، وَإِنْ لَمْ يُطِيعُوا أَمْرَهُ قَاتَلَهُمْ بِالسَّيْفِ.

If a group revolts against the Muslim government and withholds a right of God or a human being, or refuses to obey the writ of the government and seeks to overthrow it—even if it is unjust—it is obligatory upon the government to warn these rebels and call them to obey it. If they then return to the fold of the community [*jamāʿa*], it should leave them be, but if they refuse to obey the writ of the state, it must fight them with the sword.¹

II.17 CONCLUDING REMARKS

These citations from the illustrious imams and jurists of the four legal schools amply demonstrate that they were in unanimous agreement regarding the impermissibility of rebelling against the Muslim government. It is the responsibility of the government to assert its authority and jurisdiction, and the citizens of the Muslim state must provide full support to the government in crushing armed rebellion.

¹ ʿAbd al-Raḥmān al-Jazārī, *al-Fiqh ʿalā al-madhāhib al-ʿarbaʿa*, 5:419.